

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF OHIO

WESTERN DIVISION

-----  
ESTATE OF ROGER D. :  
OWENSBY JR., et al., :  
 :  
Plaintiffs, :  
vs. : Case No. 01-CV-769  
 : (Judge S. A. Spiegel)  
CITY OF CINCINNATI, :  
et al., :  
 :  
Defendants. :  
-----

Videotaped deposition of DARREN VERESE

SELLERS, witness herein, called by the plaintiffs  
for cross-examination, pursuant to the Federal Rules  
of Civil Procedure, taken before me, Wendy Davies  
Welsh, a Registered Diplomate Reporter and Notary  
Public in and for the State of Ohio, at the offices  
of Helmer, Martins & Morgan Co. LPA, 1900 Fourth &  
Walnut Centre, 105 East Fourth Street, Cincinnati,  
Ohio, on Tuesday, October 21, 2003, at 10:09 a.m.

<div>1 APPEARANCES: Page 2</div> <div>2 On behalf of the Plaintiffs:</div> <div>3 Paul B. Martins, Esq.</div> <div>4 Don Stiens, Esq.</div> <div>5 Helmer, Martins &amp; Morgan Co. LPA</div> <div>6 Suite 1900, Fourth &amp; Walnut Centre</div> <div>7 105 East Fourth Street</div> <div>8 Cincinnati, Ohio 45202</div> <div>9 Phone: (513) 421-2400</div> <div>10 John J. Helbling, Esq.</div> <div>11 The Helbling Law Firm, L.L.C.</div> <div>12 3672 Springdale Road</div> <div>13 Cincinnati, Ohio 45251</div> <div>14 Phone: (513) 923-9740</div> <div>15 On behalf of the Defendants City of Golf Manor,</div> <div>16 Stephen Tilley, Roby Heiland and Chris</div> <div>17 Campbell:</div> <div>18 Lynne Marie Longtin, Esq.</div> <div>19 Rendigs, Fry, Kiely &amp; Dennis</div> <div>20 900 Fourth &amp; Vine Tower</div> <div>21 One West Fourth Street</div> <div>22 Cincinnati, Ohio 45202-3688</div> <div>23 Phone: (513) 381-9200</div> <div>24 On behalf of Defendants City of Cincinnati,</div> <div>25 Darren Sellers, Jason Hodge:</div> <div>26 Geri Hernandez Geiler, Esq.</div> <div>27 Assistant City Solicitor</div> <div>28 and</div> <div>29 Julie F. Bissinger, Esq.</div> <div>30 Chief Counsel</div> <div>31 Department of Law</div> <div>32 Room 214, City Hall</div> <div>33 801 Plum Street</div> <div>34 Cincinnati, Ohio 45202</div> <div>35 Phone: (513) 352-3346</div>	<div>1 STIPULATIONS Page 4</div> <div>2 It is stipulated by and among counsel for the</div> <div>3 respective parties that the deposition of DARREN</div> <div>4 VERESE SELLERS, witness herein, called by the</div> <div>5 plaintiffs for cross-examination, pursuant to the</div> <div>6 Federal Rules of Civil Procedure, may be taken at</div> <div>7 this time by the notary; that said deposition may be</div> <div>8 reduced to writing in stenotype by the notary, whose</div> <div>9 notes may then be transcribed out of the presence of</div> <div>10 the witness; and that proof of the official</div> <div>11 character and qualifications of the notary is</div> <div>12 expressly waived.</div> <div>13</div> <div>14</div> <div>15</div> <div>16</div> <div>17</div> <div>18</div> <div>19</div> <div>20</div> <div>21</div> <div>22</div> <div>23</div> <div>24</div>
<div>1 APPEARANCES (Continued): Page 3</div> <div>2 On behalf of the Defendants Robert B. Jorg,</div> <div>3 Patrick Caton, Jason Hodge, Victor Spellen and</div> <div>4 Darren Sellers:</div> <div>5 Donald E. Hardin, Esq.</div> <div>6 Hardin, Lefton, Lazarus &amp; Marks, LLC</div> <div>7 915 Cincinnati Club Building</div> <div>8 30 Garfield Place</div> <div>9 Cincinnati, Ohio 45202</div> <div>10 Phone: (513) 721-7300</div> <div>11 Also present:</div> <div>12 Richard W. Grubb, Videographer</div> <div>13 Lisa Damstrom, Law Clerk</div> <div>14 Helmer, Martins &amp; Morgan Co., L.P.A.</div> <div>15 Mr. Roger Owensby</div> <div>16 Mrs. Brenda Owensby</div> <div>17 Mr. Shawn Owensby</div> <div>18</div> <div>19</div> <div>20</div> <div>21</div> <div>22</div> <div>23</div> <div>24</div>	<div>1 INDEX Page 5</div> <div>2 Examination by: Page</div> <div>3 Mr. Martins . . . . . 6</div> <div>4 Ms. Longtin . . . . . 78</div> <div>5 Mr. Martins . . . . . 80</div> <div>6 - - -</div> <div>7 EXHIBITS</div> <div>8 Deposition Exhibit 37 . . . . . 12</div> <div>9 Deposition Exhibit 38 . . . . . 23</div> <div>10 Deposition Exhibit 39 . . . . . 29</div> <div>11 Deposition Exhibits 40, 41 &amp; 42 . . . . . 41</div> <div>12 Deposition Exhibit 43 . . . . . 43</div> <div>13 Deposition Exhibit 44 . . . . . 50</div> <div>14 Deposition Exhibit 45 . . . . . 73</div> <div>15 Deposition Exhibit 46 . . . . . 74</div> <div>16</div> <div>17</div> <div>18</div> <div>19</div> <div>20</div> <div>21</div> <div>22</div> <div>23</div> <div>24</div>

Page 54

1 Q. I think you also indicated that usually  
2 when people are Maccd, they cough or wheeze --  
3 A. Right.  
4 Q. -- or react in some fashion?  
5 A. Yes, sir.  
6 Q. And -- do you recall when Officer Hodge  
7 arrived?  
8 A. Time frame, no, but as I was trying to get  
9 Mr. Owensby's left arm from up under him somebody  
10 came to my left. I didn't know who he was at the  
11 time. All I did was -- he was helping me trying to  
12 get the arm out. And then later on I found out it  
13 was Hodge.  
14 Q. Did you see anybody use a PR-24?  
15 A. No. Not that I can recall.  
16 Q. I'm sorry?  
17 A. Not that I can recall, no.  
18 Q. Other than the five officers that you've  
19 identified, that would be Jorg, Caton, Hunter, you,  
20 and Hodge, were any other officers involved in the  
21 physical arrest of Mr. Owensby?  
22 A. No, sir.  
23 Q. You then saw, as I understand it, Officer  
24 Caton and Jorg pick up Mr. Owensby off of the

Page 55

1 ground?  
2 A. Yes, sir.  
3 Q. How did they do that?  
4 A. His arms were in this fashion here  
5 (indicating). They picked him up in between in here  
6 where the bicep is and they picked him up. They  
7 kind of put the arm in up under that, up under his  
8 bicep in -- in between and held him up.  
9 Q. At that point there was a Golf Manor  
10 cruiser nearby?  
11 A. Yes, sir.  
12 Q. Is that right?  
13 A. Yes, sir.  
14 Q. And do you recall if any -- any of the  
15 officers asked the Golf Manor officer if Mr. Owensby  
16 could be placed in the Golf Manor cruiser?  
17 A. Officer Jorg came over and said, "Can we  
18 put him in your car?"  
19 Q. And the officer he talked to said what at  
20 this --  
21 A. Yes.  
22 Q. Do you know who he talked to?  
23 A. I don't know the officer's name, no.  
24 Q. What did you see after that?

Page 56

1 A. They picked him up and they started  
2 escorting him to the car, or picked him up and -- to  
3 put him in the car.  
4 Q. Was he walking on his own power?  
5 A. No, sir.  
6 Q. His head, as I understand it, was -- was  
7 hanging down?  
8 A. Yes, sir.  
9 Q. And you were behind Jorg and Caton?  
10 A. Yes, sir.  
11 Q. So you could see the back of his neck and  
12 the --  
13 A. Well, he had --  
14 Q. The short dread locks?  
15 A. He had long -- yeah. Right. So I  
16 couldn't really see his neck, but I could see the  
17 back of his head --  
18 Q. Okay.  
19 A. -- and his shoulders.  
20 Q. Did you see any type of resistance by Mr.  
21 Owensby while he was being escorted to the car?  
22 A. No, sir.  
23 Q. Did you watch them place him in the car?  
24 A. Yes, sir.

Page 57

1 Q. What did you see?  
2 A. Seen them put him face first, head first  
3 into the car. They opened the door, face first, and  
4 they slid him into the car.  
5 Q. Did you ever see Officer Caton go around  
6 to the driver's side back door and open that door?  
7 A. No, sir.  
8 Q. Once they started to put him into the car  
9 face first, did you continue to watch or was your  
10 attention directed --  
11 A. I watched until they --  
12 Q. -- elsewhere?  
13 A. -- until he got -- until he was in the  
14 car. And as -- as they were finishing putting him  
15 in the car and the door was closed, and I turned and  
16 I started walking away.  
17 Q. So when you turned and walked away, where  
18 was Officer Jorg?  
19 A. Jorg and Caton were at that -- they were  
20 on that -- on the passenger's side at that rear  
21 door.  
22 Q. All right. What did you do after that?  
23 A. After that I walked over to the back of  
24 the Sunoco, which was like the back and the side